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May 16, 2008

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MEMO ENDORSED

P3

Client No.
L 19825-00002

VIA UPS NEXT-DAY MAIL

Honorable Richard M. Berman
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Request for Permission to Exceed the Page Limitation in Beane v. The
Bank of New York Mellon, et al., Civ. No. 07-9444*

Dear Judge Berman:

On behalf of all defendants, I write to respectfully request additional pages to file
Defendants' Joint Memorandum of Law in Support of Their Motion to Dismiss Plaintiff's
Amended Complaint and in Opposition to Plaintiff's Pending Motion To Certify Class of ERISA
Plans.

Following our joint settlement conference on May 1, this Court issued a Scheduling
Order granting plaintiff leave to amend his complaint and vacating Plaintiff's previously filed
Motion to Certify the Class and Defendants' previously filed Joint Motion to Dismiss. D.E. 44.
The Order also set out a new briefing schedule for those two motions, required the defendants to

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file joint, “integrated” motion papers, and directed counsel to “[n]ote that standard page limits apply as set forth in the Court’s Individual Rules.” *Id.*

This Court’s Individual Practice 2.C. provides that memoranda of law in support of motions may not exceed 25 pages. The defendants previously requested a total of 50 pages for their combined Joint Motion and Opposition in order to give the defendants sufficient space to articulate their various common and individual bases for dismissal under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), as well as respond to plaintiff’s arguments on class certification. D.E. 35. This Court granted the defendants’ request, and defendants filed a combined memorandum of law totaling 50 pages that addresses both motions. *Id.*; D.E. 37.


Plaintiff has now amended his complaint to include additional allegations with respect to two of the three defendants and has modified some of the arguments in his memorandum in support of class certification. Defendants continue to believe that they cannot file a combined, joint memorandum in 25 pages or less without doing serious disservice to the arguments they would present to the Court. Therefore, defendants respectfully renew their request for relief from the page limitation, up to and including 50 pages, to file their Joint Memorandum of Law in Support of Their Motion to Dismiss and in Opposition to Plaintiff’s Motion To Certify Class of ERISA Plans.

Defendants have also contacted Mr. Gregory Y. Porter, Esq., counsel for the plaintiffs, and obtained consent for this request for an extension.

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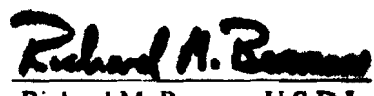
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Respectfully submitted,


Paul Blankenstein
Counsel for Callan Associates, Inc.

PB/tmj

cc: Gregory Y. Porter, Esq.

<u>The May 8 Order contemplates</u>	
<u>a 25 pp submission - but I will</u>	
<u>defer to counsel up to 35 pp.</u>	
<u>"Integrated filings" suggest</u>	
<u>that less is almost always more.</u>	
<hr/>	
SO ORDERED	
Date: <u>5/11/08</u>	
Richard M. Berman, U.S.D.J.	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ALBERT T. BEANE, JR., et al.,

Plaintiffs,

- against -

BANK OF NEW YORK MELLON CORP., et al.,

Defendants.
-----X

07 Civ. 9444 (RMB) (GWG)

ORDER

Following today's conference in the above-captioned case, the Court has revisited the procedure and the motion schedule discussed at the conference, as follows:

1. Plaintiffs' pending Motion to Certify the Class, dated February 15, 2008 [Dkt. # 22], and Defendants' pending Joint Motion to Dismiss, dated March 14, 2008 [Dkt. # 29] are **vacated** without prejudice;
2. Plaintiffs' Amended Complaint is to be filed on or before May 9, 2008;
3. Plaintiffs' Motion to Certify the Class is to be filed on or before May 9, 2008;
4. Defendants' Joint Motion to Dismiss and Opposition to Plaintiffs' Motion to Certify the Class is to be filed on or before May 30, 2008;
5. Plaintiffs' Reply is to be filed on or before June 16, 2008; and
6. Defendants' Joint Sur-Reply is to be filed on or before June 30, 2008.

Note that standard page limits apply as set forth in the Court's Individual Rules, and the Court is abandoning the "supplements" proposal discussed on May 1, 2008 and directing that new integrated filings be made instead.

SO ORDERED.

Dated: New York, New York
May 1, 2008

RMB

Richard M. Berman, U.S.D.J.